HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
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HOUSE RESEARCH ORGANIZATION

daily floor report

Thursday, May 04, 2017
85th Legislature, Number 63
The House convenes at 10 a.m.
Part Two

Ninety-five bills and one joint resolution are on the daily calendar for second-reading consideration today. Those analyzed or digested in Part Two of today's *Daily Floor Report* are listed on the following page.

The House will consider a Congratulatory and Memorial Calendar and a Local, Consent, and Resolutions Calendar.

Dwayne Bohac
Chairman
85(R) - 63

HOUSE RESEARCH ORGANIZATION

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Part 2

SUBJECT: Specifying certain contract requirements for water districts

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 11 ayes — Larson, Phelan, Ashby, Burns, Frank, Kacal, T. King, Lucio, Nevárez, Price, Workman

0 nays

WITNESSES: For — None

Against — (*Registered, but did not testify*: Ray Schwertner, City of Garland)

On — (*Registered, but did not testify*: Trey Lary, Allen Boone Humphries Robinson LLP; Amanda Crawford, Office of the Attorney General)

BACKGROUND: Water Code, sec. 49.184 requires a water district to send a certified copy of all proceedings relating to the issuance of bonds and other relevant information to the attorney general before the district may deliver bonds to the purchasers. A contract or lease may be submitted to the attorney general along with bond records. If the attorney general approves the bonds, it constitutes approval of the contract or lease, which is incontestable.

Concerns have been raised that the current language of Water Code, sec. 49.184 allows water districts to submit ancillary contracts that do not provide security for bonds to the attorney general during the bond approval process. Some suggest addressing this by aligning statute with current practices and common understanding.

DIGEST: CSHB 1946 would specify that a contract or lease submitted to the attorney general by a water district to issue bonds would have to be a contract or lease in which the proceeds were pledged to the payment of a bond.

The bill would take effect September 1, 2017, and would apply only to a

contract or lease submitted after this date.

SUBJECT: Removing limits on judicial donations made by an individual and spouse

COMMITTEE: General Investigating and Ethics — favorable, without amendment

VOTE: 6 ayes — S. Davis, Moody, Capriglione, Nevárez, Shine, Turner

0 nays

1 absent — Price

WITNESSES: For — Glen Maxey, Texas Democratic Party; Bill Fairbrother, Texas Republican County Chairmen's Association; (*Registered, but did not testify*: Susan Shelton, Texas Democratic Women)

Against — (*Registered, but did not testify*: Joanne Richards, Common Ground for Texans; Carol Birch, Public Citizen Texas; Craig McDonald, Texans for Public Justice; Lon Burnam; Hamilton Richards)

BACKGROUND: Election Code, secs. 253.155 and 253.157 limit the amount of political contributions that individuals, law firms, law firm members, or a general-purpose committee of a law firm may contribute to judicial candidates and officeholders. Section 253.158(a) states that contributions by an individual's spouse or unmarried child under age 18 are considered to be a contribution by the individual.

DIGEST: HB 1957 would amend language in Election Code, sec. 253.158(a) so that a contribution by a spouse no longer would considered to be a contribution by the individual limited under the Judicial Campaign Fairness Act.

The bill would take effect September 1, 2017.

SUPPORTERS SAY: HB 1957 would eliminate an unreasonable marriage penalty that prevents an individual and his or her spouse from making separate contributions to judicial candidates under the limits in the Judicial Campaign Fairness Act. This change would allow both individuals in a marriage to exercise their First Amendment rights to support judicial candidates the same way

another couple could if they were living together but not married.

OPPONENTS SAY:

HB 1957 would remove a restriction on the amount of judicial donations that could be made collectively by an individual and the individual's spouse. These limits were designed to maintain the independence of the judiciary by reducing the influence of campaign money in judicial races.

SUBJECT: Providing for a regional transit authority in the Rio Grande Valley area

COMMITTEE: Transportation — committee substitute recommended

VOTE: 10 ayes — Morrison, Martinez, Burkett, Y. Davis, Israel, Phillips, Pickett, E. Thompson, S. Thompson, Wray

0 nays

3 absent — Goldman, Minjarez, Simmons

WITNESSES: For — (*Registered, but did not testify*: Ramiro Gonzalez, City of Brownsville)

Against — (*Registered, but did not testify*: Vincent May, Texans for Accountable Government; Jim Baxa)

On — Ron Garza, Lower Rio Grande Development Council; (*Registered, but did not testify*: Eric Gleason, Texas Department of Transportation)

BACKGROUND: Regional transit authorities (RTAs) are public political entities that operate a public transportation system. They are empowered, broadly speaking, with the authority to acquire property, make agreements and contracts, issue bonds, and charge fares of riders with criminal penalties for nonpayment.

DIGEST: CSHB 1986 would authorize the creation of a regional transit authority (RTA) in Cameron, Hildago, and Willacy counties. The RTA would be allowed to impose a fee on the use of an international bridge that it operates, but the bill would restrict how the funds could be used.

The process for the creation of the RTA would start with the board of directors of the regional planning commission in the area holding public hearings. The commission then would create an interim executive committee, which would develop a service plan subject to the approval of each county's commissioners court. The committee then could order a confirmation election on the question of creating the RTA, which would

be approved by a simple majority vote.

A new RTA created under the authority in CSHB 1986 would be empowered with certain eminent domain powers. These provisions would take effect only if the bill received a two-thirds vote of the membership of each house.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

NOTES:

The bill's author plans to offer a floor amendment prohibiting a regional transit authority created under CSHB 1986 from relocating the property of a telecommunications provider without the provider's permission.

The companion bill, SB 2139 by Lucio, was left pending April 26 in the Senate Transportation Committee following a public hearing.

SUBJECT: Requiring the use of emergency engine cutoff switches on motorboats

COMMITTEE: Culture, Recreation and Tourism — committee substitute recommended

VOTE: 6 ayes — Frullo, Faircloth, Fallon, Gervin-Hawkins, Krause, Martinez

0 nays

1 absent — D. Bonnen

WITNESSES: For — James Gorzell; (*Registered, but did not testify*: John Kuhl, Boating Trades Association of Metropolitan Houston; Chuck Mains, Boating Trades Association of Texas; Brandon Aghamalian, City of Corpus Christi; David Sinclair, Game Warden Peace Officers Association; John Shepperd, Texas Foundation for Conservation; Dana Gage, the LV Project; Riley Gage; Susan Patten)

Against — None

On — Kevin Davis, Texas Parks and Wildlife Department

BACKGROUND: Some note that engine cutoff switches that shut a motorboat off automatically can prevent boat operators and passengers, as well as other boaters, when a driver is knocked down or out of the boat.

DIGEST: CSHB 1988 would add Kali's Law to the Parks and Wildlife Code to regulate the operation of a motorboat less than 26 feet long and equipped by the manufacturer with an engine cutoff switch designed to shut off the engine if the operator or wearer falls overboard. The bill would prohibit the operation of such a boat while the engine was running and the boat was moving unless the operator had verified that the switch was operational and fully functioning.

If the operator was using a lanyard attachment, the operator would have to ensure it was properly attached to the operator's body, clothing, or personal flotation device worn by the operator. If the switch was wireless, the operator would have to attach a working man-overboard transmitter to

each passenger on the boat.

The bill would take effect January 1, 2018.

SUBJECT: Continuing the Texas Economic Development Fund for TDA

COMMITTEE: Economic and Small Business Development — favorable, without amendment

VOTE: 8 ayes — Button, Vo, Bailes, Hinojosa, Leach, Metcalf, Ortega, Villalba

0 nays

1 absent — Deshotel

WITNESSES: For — (*Registered, but did not testify*: Carlton Schwab, Texas Economic Development Council)

Against — None

On — (*Registered, but did not testify*: Stephen Dillion and Karen Reichek, Texas Department of Agriculture)

BACKGROUND: The Texas Economic Development Fund is a fund in the state treasury that may be appropriated only to the Department of Agriculture to administer, establish, implement, or maintain an economic development program.

Agriculture Code, sec. 12.0272 provides that the fund consists of all revenue associated with economic development programs established with money allocated to the department to implement the State Small Business Credit Initiative Act, all money received as a result of a Small Business Credit Initiative investment, all gifts made to the department for administration of the Economic Development Program, and interest and income earned on the investment of money in the fund.

The State Small Business Credit Initiative Act was passed by Congress in 2010, granting Texas $46.5 million from the U.S. Treasury to increase small business access to capital and business expertise in order to allow entrepreneurs to expand companies in Texas.
The contract between the Texas Department of Agriculture and U.S.

Treasury will expire in September 2017. Concerned parties have noted the need to continue the fund and to tailor its administration more specifically to the purposes of economic development in Texas, such as encouraging agricultural exports.

DIGEST:

HB 2004 would end the authorization for the Department of Agriculture to spend money in the Texas Economic Development Fund to establish economic development programs, and would replace this authority by allowing the department to appropriate money from the fund to continue economic development programs originally established as part of the department's implementation of the State Small Business Credit Initiative.

The bill also would allow the department to use money appropriated to it from the fund to administer, continue, implement, or maintain:

- programs to further the department's authority to solicit and accept gifts, grants, and donations;
- programs or services to encourage the export of Texas agricultural products or products manufactured in rural Texas; and
- economic development programs established through an agreement with a federal agency, foreign governmental entity, nonprofit, private entity, public university, or state governmental entity to encourage rural economic development in Texas.

The bill would take immediate effect if finally passed by a two-thirds majority of both chambers. Otherwise, it would take effect September 1, 2017.

NOTES:

According to the Legislative Budget Board's fiscal note, HB 2004 would have a negative impact of $150,000 to general revenue through fiscal 2018-19 and would result in an equivalent gain to the general revenue dedicated Texas Economic Development Fund.

SUBJECT: Specifying calculation of the high-cost natural gas rate reduction

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 11 ayes — D. Bonnen, Y. Davis, Bohac, Darby, E. Johnson, Murphy, Murr, Raymond, Shine, Springer, Stephenson

0 nays

WITNESSES: For — (*Registered, but did not testify*: Bill Stevens, Texas Alliance of Energy Producers; Tricia Davis, Texas Royalty Council)

Against — None

On — (*Registered, but did not testify*: Karey Barton, Comptroller of Public Accounts)

BACKGROUND: Tax Code, ch. 201 establishes a 7.5 percent severance tax on natural gas. Sec. 201.057 establishes a reduced tax rate available for high-cost natural gas from certain wells. The magnitude of the rate reduction is based in part on the median drilling and completion (D&C) costs from all high-cost gas wells in the previous fiscal year.

Observers note that amended reports, which sometimes are filed after the close of the previous tax year, can change the previous year's median D&C costs after the median has already been established. They further note that no statute provides a direction to the comptroller as to whether the median D&C costs should be recalculated using the amended reports.

DIGEST: CSHB 2277 would provide that the previous year's median drilling and completion (D&C) costs is fixed on the date it is calculated as required under Tax Code, sec. 201.057.

The bill also would specify that a refund issued under sec. 201.057 had to be paid to the taxpayer who remitted the payment, rather than the producer.

The bill would take effect September 1, 2017, and would not affect tax liability accruing before that date.

SUBJECT: Establishing a coastal prairie research and education institute

COMMITTEE: Higher Education — committee substitute recommended

VOTE: 9 ayes — Lozano, Raney, Alonzo, Alvarado, Button, Clardy, Howard, Morrison, Turner

0 nays

WITNESSES: For — Evelyn Merz; (*Registered, but did not testify*: Bill Kelly, Mayor's Office, City of Houston)

Against — None

On — Steven Pennings, University of Houston

BACKGROUND: The University of Houston Coastal Center (UHCC) is a 925-acre center in LaMarque, Texas, that includes more than 200 acres of undisturbed coastal prairie. UHCC provides research and education on a number of areas related to protecting, preserving, and restoring the coastal prairie.

Observers have noted that a special designation for the UHCC would raise its profile and provide more opportunities for competitive grants and other research funding, as well as enhance efforts to preserve and research an endangered natural habitat.

DIGEST: CSHB 2285 would establish the Texas Institute for Coastal Prairie Research and Education at the University of Houston. The organization, control, and management of the institute would be vested in the board of regents of the University of Houston system. The institute would be required to:

- conduct environmental research and education on coastal prairie and prairie restoration and provide a setting for other entities to conduct similar research and education; and
- provide national leadership and education on the best methods to restore coastal prairie.

The University of Houston would be required to encourage public and private entities to participate in or support the operation of the institute and could enter into an agreement with any public or private entity for that purpose. An agreement could allow the institute to provide information, services, or other assistance to an entity in exchange for the entity's participation or support.

The University of Houston System's board of regents could solicit, accept, and administer gifts and grants from any public or private source for the institute. The board also could hire personnel for the institute as necessary.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

SUBJECT: Allowing certain procedures of state agencies to be done electronically

COMMITTEE: Government Transparency and Operation — committee substitute recommended

VOTE: 7 ayes — Elkins, Capriglione, Gonzales, Lucio, Shaheen, Tinderholt, Uresti

0 nays

WITNESSES: For — (*Registered, but did not testify*: Kelley Shannon, Freedom of Information Foundation of Texas; Nora Belcher, Texas e-Health Alliance)

Against — None

On — (*Registered, but did not testify*: Patrick Moore, Legislative Budget Board; Mark Myers and Nanette Pfiester, Texas State Library and Archives Commission)

BACKGROUND: Some have suggested that current requirements for transmitting and receiving certain state agency reports and notices prevents agencies from choosing the most efficient communication method.

DIGEST: CSHB 2305 would allow certain operations, communications, and notification procedures of state agencies to be electronic.

Use of Texas Digital Archive. Unless a report prepared by a state agency was confidential or exempted from public disclosure requirements, the agency would be required to use the Texas Digital Archive to submit or post the report if the general appropriations act required it to be submitted to the governor, a legislative entity, another state agency, or the public.

An agency could post a direct link to the Texas Digital Archive on its website to satisfy any requirement that the report to be posted on the agency's website.

The Texas State Library and Archives Commission (TSLAC) would be

required to provide guidelines to state agencies in deciding which reports were appropriate for submission and retention and to monitor the effectiveness of state agency use of the archive for posting requirements.

A state agency would not be required to comply with the bill until TSLAC notified the agency that the archive was configured to allow compliance.

Report of reports. TSLAC would be required to submit a written report on all statutorily required reports prepared by and submitted to a state agency. For each statutorily required report, the commission's report would have to include certain information specified in the bill, including the title, statutory authority, and a brief description of each.

State agencies would be required to cooperate with TSLAC and submit any information necessary for preparing the report in the time and manner prescribed by the commission. TSLAC could require the information to be submitted using the Texas Digital Archive.

TSLAC would be required to submit the report to the governor and the Legislative Budget Board by January 1 of every other odd-numbered year, beginning in 2021, and make it available to the public.

Transmission and receipt of documents. A state agency could transmit and receive state documents in a format that increased efficiency without compromising the delivery of a program to the public. If an electronic medium was used, an agency would be required to develop electronic communication procedures.

A state agency would be required to include in its fiscal 2020-21 legislative appropriation request any cost savings or achievements in efficiency realized by implementing a change in the procedures for the transmission and receipt of documents.

The bill would prevail over any state law relating to the transmission and receipt of state agency documents. The electronic transmission or receipt of documents would not be allowed if it was prohibited by federal law.

Study on mail operations. The comptroller would be required to conduct

a study on the mail operations of each executive branch agency that received an appropriation. The study would have to identify for each agency any statutory mailing requirements that impeded the efficient transmission and receipt of documents. The findings would be posted on the comptroller's website by November 1, 2018.

Certain notices and records. The bill would amend provisions in the Government, Health and Safety, Labor, Natural Resources, Occupations, and Transportation codes to allow for certain notices and records kept by a state agency to be electronic.

Effective date. The bill would take effect September 1, 2017, and would apply only to a notice or report that was delivered or submitted on or after that date.

NOTES:

According to the Legislative Budget Board, the bill could result in a positive fiscal impact for some agencies due to the ability to transmit and receive electronic documents.

SUBJECT: Using auction proceeds to reimburse law enforcement for certain expenses

COMMITTEE: Homeland Security and Public Safety — favorable, without amendment

VOTE: 7 ayes — Burns, Hinojosa, Holland, J. Johnson, Metcalf, Schaefer, Wray

0 nays

2 absent — P. King, Nevárez

WITNESSES: For — (*Registered, but did not testify*: Ernest Gonzalez, Cities of Freer and San Diego, TX; AJ Louderback, William Mills, and Ricky Scaman, Sheriffs' Association of Texas; Joey Park, South Texans Property Rights Association; Jeremy Fuchs, Texas and Southwestern Cattle Raisers Association)

Against — None

BACKGROUND: Transportation Code, sec. 683.015 allows a law enforcement agency to be reimbursed from the proceeds of the sale of an abandoned motor vehicle, aircraft, watercraft, or outboard motor for the cost of the auction, towing, and other fees, as well as the cost of sending notice to certain persons.

Sec. 683.015(f) allows a law enforcement agency or an attorney representing the state to use funds from auction proceeds to compensate property owners whose property was damaged as a result of a law enforcement pursuit.

Concerns have been raised that law enforcement agencies are not able to obtain reimbursement for any compensation the agency makes to a landowner whose property was damaged as a result of a pursuit.

DIGEST: HB 2306 would allow auction proceeds from the sale of an abandoned motor vehicle, aircraft, watercraft, or outboard motor to be used to reimburse law enforcement for any compensation made to property owners whose property was damaged as a result of a pursuit involving the motor vehicle.

The bill would take effect September 1, 2017, and would apply only to proceeds of a sale of an abandoned motor vehicle that took place on or after that date.

SUBJECT: Modifying reinsurance contract regulations; certifying reinsurers

COMMITTEE: Insurance — committee substitute recommended

VOTE: 9 ayes — Phillips, Muñoz, R. Anderson, Gooden, Oliverson, Paul, Sanford, Turner, Vo

0 nays

WITNESSES: For — Ted Kennedy, AIG; Craig MacIntyre, Home State County Mutual; (*Registered, but did not testify*: Jay Thompson, AFACT; Deborah Polan, AIG; Thomas Ratliff, American Insurance Association; John Marlow, Chubb; Chris Britton, Lloyd's America; Paul Martin, National Association of Mutual Insurance Companies; Michael Garcia, Redpoint Insurance Group; Amanda Martin, Texas Association of Business; Jamie Dudensing, Texas Association of Health Plans; Jennifer Cawley, Texas Association of Life and Health Insurance; Kari King, USAA)

Against — None

On — (*Registered, but did not testify*: Doug Slape, Texas Department of Insurance)

BACKGROUND: Insurance Code, sec. 493.051 allows insurers authorized to engage in business in this state to provide reinsurance. Sec. 493.102 permits these insurers to receive credit for reinsurance ceded only if the assuming insurer:

- is authorized to engage in the business of insurance or reinsurance in Texas;
- is accredited as a reinsurer in Texas; or
- maintains a trust fund in a qualified United States financial institution authorized to operate with fiduciary powers.

Otherwise, assuming insurers party to a reinsurance agreement must provide 100 percent collateral.

Some observers perceive a need to expand the flexibility of insurance companies in negotiating reinsurance contracts, noting that current law allows credit reinsurance transactions on the basis of geographic location, not financial solvency. They say that modifying the requirements for credit reinsurance agreements would improve the quality, coverage, and security of insurance transactions in Texas.

DIGEST:

The bill would allow credit to be issued to an insurer ceding risk in a reinsurance transaction only if the reinsurer was certified by the Commissioner of Insurance. To be eligible for certification, insurers would have to:

- be domiciled and licensed to transact insurance or reinsurance in a jurisdiction listed as qualified by the commissioner;
- maintain minimum capital and surplus in an amount required by the commissioner;
- maintain a financial strength rating from at least two rating agencies deemed acceptable by the commissioner;
- agree to submit to the jurisdiction of any court in the United States;
- appoint the commissioner as its agent for service of process;
- provide 100 percent collateral if the assuming insurer resisted enforcement of a court's final judgment; and
- satisfy any requirements, including application information filing requirements, established by the commissioner.

An assuming insurer that was not authorized to engage in the business of insurance or reinsurance in Texas or was not accredited as a reinsurer in this state could still be party to a credit reinsurance transaction if the assuming insurer agreed to comply with commissioner or court orders to transfer all assets of the fund to the commissioner if it became inadequate or the grantor of the trust became insolvent.

The commissioner would be required to publish a list of ratings assigned to each certified reinsurer based on its financial strength rating and maintenance of security. Reinsurers would be authorized to maintain security in separate trust accounts of a multibeneficiary trust, provided that the trust maintained a minimum trusteed surplus of $10 million. The

commissioner could make reductions in allowable credit.

The bill also would qualify underwriters' associations to be certified reinsurers, provided that they meet certain capital and surplus, solvency control, and regulatory requirements.

The bill would require the commissioner to publish a list of qualified jurisdictions in which a certified assuming insurer must be licensed and domiciled. In doing so, the commissioner would consider a jurisdiction's status with the National Association of Insurance Commissioners, effectiveness of reinsurance systems, willingness to cooperate with the commissioner, and willingness to enforce United States judgments and awards.

The bill would require a ceding insurer to notify the commissioner within 30 days if its reinsurance recoverable exceeds or is likely to exceed 50 percent of the insurer's last reported surplus to policyholders, or if it cedes more than 20 percent of the amount of its gross written premium from the last year to an assuming insurer. This requirement would not apply to a county mutual insurance company that did not write or assume insurance in another state.

The bill would authorize the commissioner to reduce the amount of trusteed surplus required of a single assuming insurer, but not to an amount less than 30 percent of that insurer's liabilities from reinsurance ceded by United States insurers.

In order to assume risk in a reinsurance transaction, a trust would have to be approved by the commissioner or an insurance regulatory official of another state with principal regulatory oversight and file a copy of the trust instrument with the commissioner. Beneficiaries of the trust fund could request certain financial information annually.

The commissioner could suspend or revoke certification if the reinsurer ceased to meet the requirements for certification, in which case the reinsurer would have to provide 100 percent collateral to engage in a reinsurance transaction. Certified reinsurers that stopped assuming new business could request inactive status and would still have to comply with

requirements for certification during inactive periods.

The bill would require the commissioner to adopt rules to enforce these changes to Insurance Code, ch. 493.

The bill would take effect September 1, 2017, and would apply only to a reinsurance contract entered into or renewed on or after January 1, 2018.

NOTES:

A companion bill, SB 1070 by Hancock, was approved by the Senate on April 27 and referred to the House Committee on Insurance.

SUBJECT: Removing reporting requirement by insurer of certain disciplinary actions

COMMITTEE: Insurance — favorable, without amendment

VOTE: 9 ayes — Phillips, Muñoz, R. Anderson, Gooden, Oliverson, Paul, Sanford, Turner, Vo

0 nays

WITNESSES: For — Beaman Floyd, Texas Coalition for Affordable Insurance Solutions; (*Registered, but did not testify*: Thomas Ratliff, American Insurance Association; Paul Martin, National Association of Mutual Insurance Companies; Joe Woods, Property Casualty Insurers Association of America; Susan Ross, State Farm Insurance; Amanda Martin, Texas Association of Business)

Against — None

On — (*Registered, but did not testify*: Leah Gillum, Texas Department of Insurance)

BACKGROUND: Insurance Code, sec. 81.003(b) requires an insurer to notify and send a copy of any applicable order or judgment to the Commissioner of Insurance within 30 days after the date of the:

- suspension or revocation of the insurer's right to transact business in another state;
- receipt of an order to show cause why the insurer's license in another state should not be suspended or revoked; or
- imposition of a penalty, forfeiture, or sanction on the insurer for a violation of the insurance laws of another state.

Insurance regulators participate in national regulatory enforcement databases. Observers contend that a reporting obligation requiring an insurer to notify and provide certain documentation to the commissioner on an insurer's violation of certain insurance laws of another state is redundant and obsolete.

DIGEST:

HB 2665 would remove the requirement that an insurer notify and send a copy of any applicable order or judgment to the Commissioner of Insurance within 30 days after the date of an imposition of a penalty, forfeiture, or sanction on the insurer for a violation of the insurance laws of another state.

The bill would take effect September 1, 2017.

NOTES:

A companion bill, SB 1012 by Creighton, was approved by the Senate on April 19 and has been referred to the House Committee on Insurance.

SUBJECT: Changing the composition of the public transportation advisory committee

COMMITTEE: Transportation — committee substitute recommended

VOTE: 10 ayes — Morrison, Martinez, Burkett, Y. Davis, Phillips, Pickett, Simmons, E. Thompson, S. Thompson, Wray

0 nays

3 absent — Goldman, Israel, Minjarez

WITNESSES: None

BACKGROUND: Transportation Code, sec. 455.004 establishes a public transportation advisory committee tasked with advising the Texas Transportation Commission on matters relating to public transit. Nine total members are appointed by the governor, the lieutenant governor, and the House speaker, who each appoint one representative from each of a cross-section of public transit providers, a cross-section of public transit users, and the general public.

DIGEST: CSHB 2993 would require the Texas Transportation Commission to appoint at least six members to the public transportation advisory committee, with at least two representatives from each of a cross-section of public transit providers, a cross-section of public transit users, and the general public. Representatives would serve at the pleasure of the commission.

The governor, lieutenant governor, and House speaker no longer would appoint members of the committee.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

SUBJECT: Allowing physicians in an accountable care organization to receive data

COMMITTEE: Insurance — committee substitute recommended

VOTE: 9 ayes — Phillips, Muñoz, R. Anderson, Gooden, Oliverson, Paul, Sanford, Turner, Vo

0 nays

WITNESSES: For — Robert Morrow, Blue Cross and Blue Shield of Texas; Dr. Anas Daghestani, Texas Medical Association; (*Registered, but did not testify*: Ian Randolph and John Hubbard, PracticeEdge; Dan Hinkle, Texas Academy of Family Physician; Jaime Capelo, Texas Ambulatory Surgery Center Society; Jamie Dudensing, Texas Association of Health Plans; Clayton Stewart, Texas Medical Association; David Reynolds, Texas Osteopathic Medical Association; Bonnie Bruce, Texas Society of Anesthesiologists; Greg Herzog, Texas Society of Gastroenterology and Endoscopy and Texas Neurology Society)

Against — None

On — (*Registered, but did not testify*: Jamie Walker, Texas Department of Insurance)

BACKGROUND: Insurance Code, ch. 1460 limits how health benefit plan issuers may disclose information to physicians about the total cost of care provided by physicians and requires an evaluation period before disclosing information to physicians and others. Some have called for the statute to be changed to allow physicians participating in accountable care organizations to more easily receive this information.

DIGEST: CSHB 3124 would allow a health benefit plan issuer to provide cost comparison data to physicians participating in accountable care organizations and to a designated entity. A "designated entity" would mean a limited liability company in which a majority ownership interest was held by an incorporated association whose purpose included uniting in one organization all physicians licensed to practice medicine in Texas

and that has been in continued existence for at least 15 years.

Under the bill, within 15 business days of receiving a request from a participating physician, the health benefit plan issuer would be required to disclose to the physician the following information:

- the cost comparison data associated with the physician;
- the measures and methodology used to compare costs; and
- any other information considered in making the cost comparison.

If cost comparison data associated with non-physician health care providers was available to a health benefit plan issuer that provided this data, the plan issuer would provide that data. The bill would prohibit the disclosure of a contract rate or the publication of cost comparison data to anyone other than a participating physician or a designated entity.

The health plan issuer would ensure that physicians currently in clinical practice were actively involved in the development of standards used for cost containment data and that the measures and methodology used to develop cost containment data were transparent and valid.

A health benefit plan issuer would provide written notice to a physician under contract with the plan that explained how the plan issuer would compile and use cost comparison data, the purpose and scope of the issuer's release of cost comparison data, the requirements in statute regarding cost comparison data, and information about physicians' rights and duties. A physician who received cost comparison data about another physician would be prohibited from disclosing the data to any other person, except for the following purposes:

- managing an accountable care organization;
- managing the receiving physician's practice or referrals;
- evaluating or disputing the cost comparison data associated with the receiving physician;
- obtaining professional advice related to a legal claim; or
- reporting, complaining, or responding to a governmental agency.

The bill would set out how a physician could dispute cost comparison data and would specify the rights a physician would have at the dispute proceeding.

The bill would require the health benefit plan issuer to provide the physician with written information about the outcome of the dispute proceeding within 60 days of the date the physician initiated the dispute process, including reasons for the final decision. If the health benefit plan issuer determined that the cost comparison data was inaccurate or the measures and methodology used to compare costs were invalid, the issuer would promptly correct the data or update the measures and methodology and associated data. The bill would require the measures and methodology used to compare costs to account for health status differences between different populations of patients.

The commissioner of insurance would adopt rules as necessary to implement the bill's provisions regarding cost comparison data. A health benefit plan issuer that violated the bill's provisions or a rule adopted by the commissioner of insurance related to the provisions would be subject to sanctions and disciplinary actions. A violation of the provisions of the bill by a physician would constitute grounds for disciplinary action by the Texas Medical Board, including an administrative penalty.

The bill would take effect September 1, 2017, and would apply to a contract entered into or renewed on or after that date. A contract before that date would be governed by the law as it existed immediately before that date and the law would be continued for that purpose.

SUBJECT: Liability for sale of law enforcement vehicles before removing insignia

COMMITTEE: Homeland Security and Public Safety — favorable, without amendment

VOTE: 9 ayes — P. King, Nevárez, Burns, Hinojosa, Holland, J. Johnson, Metcalf, Schaefer, Wray

0 nays

WITNESSES: For — Brent Graves, Texas Auctioneers Association; Noel Johnson, Texas Municipal Police Association; Paul Swisher, Williamson County Sheriff's Office; (*Registered, but did not testify*: Keith Oakley, Associated Security Services and Investigators of the State of Texas; Greg Capers, Micah Harmon, and Buddy Mills, Sheriffs' Association of Texas; Todd Kercheval, Texas Auctioneer Association)

Against — None

BACKGROUND: The 84th Legislature in 2015 enacted HB 473 by Giddings, requiring that certain equipment and insignia be removed from a marked patrol car or other law enforcement motor vehicle prior to the vehicle being sold by a political subdivision to the public or a security services contractor.

Some observers have suggested that this requirement lacks enforcement mechanisms to ensure compliance.

DIGEST: HB 3223 would prohibit a person from selling or transferring a marked patrol car or other law enforcement motor vehicle to the public without first removing any equipment or insignia that could mislead a person to believe that the vehicle was a law enforcement vehicle. Equipment would include a siren, lights associated with police or emergency vehicles, and other features.

A person could not sell or transfer a marked patrol car or other law enforcement motor vehicle to a security services contractor without first removing each emblem or insignia that identified the vehicle as a law enforcement vehicle.

A person or a political subdivision in violation of the applicable prohibition against selling or transferring a marked patrol car would be liable:

- for damages proximately caused by the use of that vehicle during the commission of a crime; and
- for a civil penalty of $1,000.

The attorney general could bring an action to recover the civil penalty.

Governmental immunity to suit and from liability would be waived and abolished to the extent of liability for a political subdivision in violation.

The bill would take effect September 1, 2017, and would apply only to a violation that occurred on or after that date.

SUBJECT: Allowing TDA to administer and enforce produce safety standards

COMMITTEE: Agriculture and Livestock — favorable, without amendment

VOTE: 6 ayes — T. King, González, C. Anderson, Cyrier, Rinaldi, Stucky

0 nays

1 absent — Burrows

WITNESSES: For — (*Registered, but did not testify*: Judith McGeary, Farm and Ranch Freedom Alliance; Joy Casnovsky, Sustainable Food Center; J Pete Laney, Texas Citrus Mutual; Lauren Wied, Wonderful Citrus)

Against — None

On — (*Registered, but did not testify*: Richard De Los Santos and Dan Hunter, Texas Department Agriculture)

BACKGROUND: Agriculture Code, sec. 12.020 describes the administrative penalties that the Texas Department of Agriculture (TDA) may assess against a person for violating certain laws and rules. Each day a violation continues to occur may be considered a separate violation for purposes of penalty assessments.

Sec. 91.009 makes TDA the lead agency for education and training on food safety and requires TDA to assist the fresh fruit and vegetable industries with food safety issues. TDA may assist federal agencies implementing voluntary guidelines related to sound agricultural practices.

Concerns have been raised that provisions relating to the coordination of food safety should be revised to align with recently developed objectives that shift safety concerns from a system focused on responding to contamination to a system focused on preventing contamination.

DIGEST: HB 3227 would amend Agriculture Code, sec. 12.020(c) to allow the Texas Department of Agriculture (TDA) to assess administrative penalties

up to $5,000 for a violation of rules or orders adopted under sec. 91.009, which the bill would be amend to govern the coordination of produce safety instead of food safety.

The bill would make TDA the lead agency for the administration, implementation, and enforcement of, and for education and training related to, the United States Food and Drug Administration (USDA) standards for growing, harvesting, packing, and holding of produce for human consumption.

When adopting rules to administer, implement, and enforce produce safety, TDA could consider relevant state, federal, or national standards and could consult with federal or state agencies. TDA could enter into a cooperative agreement, interagency agreement, grant agreement, or memorandum of understanding with a federal or state agency to administer, implement, or enforce produce safety programs.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

NOTES: A companion bill, SB 1668 by Lucio, was referred to the Senate Committee on Agriculture, Water and Rural Affairs on March 22.